

## Summary

### Air Management Study Group Meeting

Thursday, May 28, 2015

9:00 am

Room G09, State Natural Resources Building (GEF2)  
101 S. Webster St., Madison, WI

## Attendees

David Bizot, DNR  
Marty Burkholder, DNR  
Kendra Fisher, DNR  
Rob Harmon, Bemis Company, Inc.  
Art Harrington, Godfrey & Kahn\*  
Kristin Hart, DNR  
Tracey Holloway, UW-Madison\*  
Gail Good, DNR  
Joseph Hoch, Alliant Energy  
Bob Lopez, DNR  
Jason Martin, SEH  
Paul Mathewson, Clean Wisconsin\*

Dave Molzahn, WPSC  
Randy Oswald, WPSC  
Todd Palmer, Michael Best\*  
Andrea Simon, Trinity Consultants  
Bart Sponseller, DNR  
Kathleen Standen, We Energies  
Andrew Stewart, DNR  
Scott Suder, WPC\*  
Robert Thiboldeaux, DHS  
Karen Walsh, DNR  
Tara Wetzel, WTBA\*

\* Air Management Study Group (AMSG) members

## Action Items

- **Next meeting**

The next study group meeting will be held on **Thursday, August 27** at 9 a.m. at the State Natural Resources Building (GEF 2), Room G09, 101 S. Webster St., Madison.

- **Charter and priority topics review**

The Air Program will follow-up with members to request feedback on proposed revisions to the AMSG charter and list of priority topics (see p. 9). The Air Program plans to finalize revisions for the August study group meeting.

- **Upcoming events**

Members provided information about two upcoming events that may be of interest to the group. See the member updates section on page 5 for details.

**Wisconsin Energy Institute's 2015 Energy Summit**

Air & Energy: The Path Ahead for U.S. States

October 13, 2015

8:00 am to 7:00 pm

Union South, University of Wisconsin-Madison

1308 W. Dayton St., Madison, WI 53715

**Panel discussion: Litigating the Administration's Clean Power Plan**

October 30, 2015

1:30 p.m. – 3:00 p.m.

ABA Section of Environment, Energy, and Resources Fall Conference (October 28-31)

Swissôtel

323 E. Wacker Dr., Chicago, IL 60601

## **Meeting Summary**

### **Opening remarks and agenda review**

Bart Sponseller, Bureau Director

Sponseller opened the meeting and reviewed the agenda. He noted that many of the presentations address DNR activity resulting from new federal rules and requirements that will be playing out over the next few years.

### **Program updates**

#### Ozone transport planning under the 2008 standard

David Bizot, Regional Pollutants & Mobile Sources Section Chief

Bizot updated the study group on transport planning under the 2008 ozone standard. He also touched on other aspects of implementation of the 2008 standard, and the status of the proposed 2015 ozone standard. The presentation slides are available on the AMSG website under the May 28 meeting at <http://dnr.wi.gov/topic/airquality/amstudygroup.html> (starting on slide 2). The information presented in this summary supplements the information in the slides.

#### *Ozone design values*

Bizot showed a plot of Wisconsin ozone design values over time (slide 3). He pointed out that the values decrease as you move inland from Lake Michigan and to the north, since lake breeze effects increase ozone concentrations. He added that the state is dedicating more resources to address lake breeze impacts, partnering with research institutions such as the University of Wisconsin, LADCO, and other states. Three to four monitors have exceeded the standard during design value years 2012 to 2014; the highest design values were from Sheboygan and Kenosha Counties.

#### *Ozone transport*

Bizot stated that Wisconsin is participating in early planning on ozone transport issues by sitting in on a commissioner-level series of discussions among 20 to 25 states, mainly in the eastern U.S., that are focused on identifying voluntary efforts states can take to address ozone transport in advance of the rule that will be issued by EPA (slide 4). The states are trying to formulate an agreement that involves utilities running existing, installed controls more frequently. Utilities in these states are often not running the controls because it is cheaper to buy credits to offset emissions. Wisconsin is observing these discussions rather than

formally participating because existing rules, permits, consent decrees, and administrative orders require most Wisconsin utilities to run their installed controls. However, Wisconsin will likely have a responsibility to reduce emissions under the EPA transport rule expected in the fall.

EPA issued a preliminary determination that Wisconsin emissions contribute to ozone concentrations in Allegan, Michigan. Harrington asked whether that means Chicago is contributing to the emissions in Michigan rather than Wisconsin. Bizot responded that EPA determined that many other states affect concentrations read by Wisconsin monitors, including the Chiwaukee monitor, but only identified a single monitor in Michigan affected by transport from Wisconsin. This finding should be solidified in EPA's proposed transport rule for the 2008 ozone standard, expected this fall.

Palmer asked what NO<sub>x</sub> control options the department is considering to address Wisconsin's impact on Allegan, Michigan. He asked whether control efforts would target stationary sources, or whether they could also include mobile sources. Bizot responded that the department does not know yet, but that it has limited control over mobile sources. Air Program staff, study group members, and members of the audience discussed to what extent utilities in Wisconsin are running NO<sub>x</sub> controls. Bizot stated that any modeling will reflect current use of controls.

Hoch asked whether EPA expects the 2008 ozone standard transport rule to be the same as the transport rule for the 1997 standard (Cross State Air Pollution Rule, or CSAPR). Lopez responded that it is not clear whether the 2008 rule will affect only the utilities (like CSAPR) or also affect other sectors. Sponseller stated that the main message from the multistate meetings is that the 2008 transport rule will look much like CSAPR.

Holloway asked whether there is an ongoing assessment of interstate ozone transport. Because EPA has already made preliminary determinations of each state's impact on other states, she wanted to know whether the agency will continue to consider new transport data or whether the assessment is already complete for the purposes of the 2008 transport rule. Bizot responded that the modeling information used for implementation of the rule will be updated, but the current modeling platform specifically addresses high ozone days, not the full ozone season. The Air Program does not expect there to be major changes to the modeling platform.

Palmer pointed out that if EPA determined that Wisconsin only has impacts on one out-of-state monitor (compared to traditional EPA analyses that show effects on many monitors), the state will be in a unique position. Bizot responded that he does not think that will be the case. If EPA determines that a state contributes to monitor violations in other states, the state is affected by the transport rule requirements regardless of the level of impact. Palmer pointed out that EPA decouples the initial assessment from implementation because otherwise implementation would be too complicated to be fair. But if Wisconsin can show that it is simpler to implement based on the state's actual contributions to out-of-state monitor violations, that approach might be an exit strategy for Wisconsin. Bizot responded that it is something the Air Program could explore.

#### *Attainment of the 2008 standard*

Bizot explained that EPA lost a court case that changed the timeline for implementation of the 2008 ozone standard (slide 6). Due to the court decision, the attainment date for marginal nonattainment areas is July 2015, which means that 2012 to 2014 data will be used to assess attainment status (instead of 2013 to 2015 data under EPA's original interpretation of the deadline). Using these data, the Sheboygan County and partial Kenosha County nonattainment areas did not attain the standard. Sheboygan County's 4<sup>th</sup> highest value was below the standard last summer, so it is eligible for a one year extension of the attainment date, which the Air Program expects EPA to approve. The extension would allow 2015 data to be used to demonstrate attainment. The partial Kenosha County nonattainment area will become a moderate

nonattainment area and be subject to some additional nonattainment area requirements (listed on slide 7). The Air Program will reach out to sources to provide information about the new requirements once this “bump up” officially occurs.

#### *Special Purpose Monitors*

Good briefly discussed the Special Purpose Monitors in Kenosha and Sheboygan Counties (Kenosha-Water Tower and Sheboygan -Haven; slide 7). The Kenosha-Water Tower site will continue to operate as a Special Purpose Monitor, beyond the two years initially indicated by EPA. The Air Program is just starting to look at data from the Haven site, and is seeing a 5 to 10 percent difference between the two Sheboygan monitors. She reported that the Haven site has been showing compliance with the ozone standard.

#### *2015 ozone standard*

Bizot provided an update on the status of the 2015 ozone standard (slide 8). He pointed out that EPA probably will not provide implementation guidance until the last moment because setting the level of the standard will be a high level decision that will be made right before the deadline. He added that the department will propose area designations under the 2015 standard using 2014 to 2016 design values, but that the final designations will be based on 2015 to 2017 values.

Harrington asked whether sources, specifically utilities, have approached the Air Program about banking offsets (Emission Reduction Credits) generated by facility retirements or permanent emissions reductions. He asked whether offsets banked before area designations for a new standard can be used in the new nonattainment areas (i.e., whether sources could certify permanent VOC reductions now that would be valid after the new standard is effective). He is speaking with clients about whether they should be looking for internal improvements and certifying them. He emphasized that the banked offsets could be of great value for the state. Bizot responded that the Air Program will follow up with EPA to establish whether it is possible to certify reductions in advance of the new standard. Sponseller agreed that it is important for clients to be aware of the upcoming standard.

#### Rules update

Kristin Hart, Permits and Stationary Source Modeling Section Chief

Hart provided an update on the status of several rulemaking efforts. The presentation slides are available on the AMSG website under the May 28 meeting at <http://dnr.wi.gov/topic/airquality/amstudygroup.html> (starting on slide 10). The information presented in this summary supplements the information in the slides.

Hart pointed out that most of the rules addressed in this update are being processed by EPA concurrent to the rulemaking. In other words, the rule approval hearings will double as SIP approval hearings.

#### *Permit streamlining*

See slide 11. Hart added that the Legislative Council made minor clarifying edits to the rule language.

Palmer asked about the length of time the rulemaking process required. Hart responded that this rulemaking will have taken about three years from scope approval to adoption of the final rule. Hart and Sponseller agreed that this is a fairly standard amount of time for a rule requiring significant outreach.

Hoch asked whether the rule will require SIP approval. Hart responded that changes to NR 407 mostly do not need SIP approval, but that most of the changes to NR 406 do, including the restricted use engine exemption and construction permit exclusion.

Sponseller added that the presentation of the final rule at the June 24 board meeting will be taking place in La Crosse.

#### *1-hour NO<sub>2</sub> and SO<sub>2</sub> NAAQS*

See slide 12.

#### *Consistency with EPA rules*

See slide 13. Hart clarified that this rulemaking does not affect how the department implements the EPA rules. The scope statement for this effort has been approved.

#### *Annual PM<sub>2.5</sub> NAAQS*

See slide 14.

### **Member updates**

Members provided information about two upcoming events that may be of interest to study group members.

#### 2015 Energy Summit – Air & Energy: The Path Ahead for U.S. States

Tracey Holloway, UW-Madison

Holloway announced that she is chairing the Wisconsin Energy Institute's 2015 Energy Summit, Air & Energy: The Path Ahead for U.S. States. The event will bring together about 300 people from research, industry, and regulatory backgrounds.

Holloway noted that the event will include participation from members of the study group. Janet McCabe has been invited as the keynote speaker. The summit may coincide with a meeting of air directors in Madison the day before, in which case they might stay for the summit. Organizations are welcome to co-sponsor the event.

#### **Event details:**

October 13, 2015

8:00 am to 7:00 pm

Union South, University of Wisconsin-Madison

1308 W. Dayton St., Madison, WI 53715

#### **Agenda topics**

- Clean Power Plan
- Meeting the new ozone standard
- U.S. air and foreign air pollution
- Can satellite data support air regulation
- Buildings and energy
- Cities and cars
- Future fuels, future engines

For more information, visit the following link: <https://energy.wisc.edu/events/2015-energy-summit>

## Litigating the Administration's Clean Power Plan

Art Harrington, Godfrey & Kahn

Harrington announced that he will be participating in a panel discussion addressing litigation of the Clean Power Plan at the American Bar Association's Section of Environment, Energy, and Resources (SEER) fall meeting in Chicago. Event details are provided below.

### **Litigating the Administration's Clean Power Plan**

**Friday, October 30, 2015**

1:30 p.m. – 3:00 p.m.

SEER Fall Conference (October 28-31)

Swissôtel

323 E. Wacker Dr., Chicago, IL 60601

The President's Clean Power Plan, which EPA is implementing under Section 111(d) of the Clean Air Act, is the most significant environmental and energy regulation of the Administration, and also the most legally controversial. With the rule anticipated to be finalized in the Summer of 2015, this panel will focus on the legal issues and litigation strategy surrounding what is likely to be the highest profile environmental litigation of the next several years. Topics will include the key legal issues, the timing for litigation and decision, and predictors on outcome for the Court and prospects for Supreme Court review.

**Moderator:** Monica Trauzzi, Environment & Energy News/Greenwire.

**Speakers:** Laurence H. Tribe, Harvard Law School; Art J. Harrington, Godfrey & Kahn; Megan Ceronsky, Senior Policy Advisor at the White House Office of Energy and Climate Change.

For more information about the SEER fall conference, see

<http://shop.americanbar.org/ebus/ABAEventsCalendar/EventDetails.aspx?productId=155325736>.

## **Tribal Class I implementation**

Marty Burkholder, Natural Resources Staff Specialist, Regional Pollutants & Mobile Sources Section

Burkholder gave a presentation on the establishment of tribal Class I areas in or near Wisconsin, focusing in particular on the Forest County Potawatomi Community Reservation. The presentation slides are available on the AMSG website under the May 28 meeting at

<http://dnr.wi.gov/topic/airquality/amstudygroup.html> (starting on slide 16). The information presented in this summary supplements the information in the slides.

Burkholder explained that three tribes in or near Wisconsin have or are pursuing Class I status for their reservations under the Clean Air Act's Prevention of Significant Deterioration (PSD) program (see slide 17). Class I status provides special protection to air quality by imposing more stringent PSD permitting requirements on sources whose emissions may affect a Class I area. For example, the PSD program provides for the protection of specific natural resources affected by air quality, referred to as Air Quality Related Values (AQRVs), in Class I areas.

## Bad River and Fond du Lac Bands

The Bad River Band of Lake Superior Chippewa and the Fond du Lac Band of Lake Superior are currently pursuing Class I status for their reservations near Ashland, Wisconsin and in northeastern Minnesota,

respectively. Both bands have consulted with the State of Wisconsin on their proposals, have held public hearings, and are in the process of responding to public comments.

Bizot asked whether the withdrawal of the proposed Gogebic Taconite mine affects the timeline for the Bad River band. Burkholder responded that it does not.

Palmer stated that he is representing a group that has been involved in both efforts and has filed comments seeking clarification about the types of AQRVs the bands are considering, how they would work, etc. He noted that the Fond du Lac case raises unique issues and questions because it is near a fairly industrialized area compared to the other existing or proposed tribal Class I areas, which are more rural. A paper mill is on the border of the Fond du Lac reservation.

Sponseller noted that both Minnesota and Wisconsin are involved in the Fond du Lac process, and Minnesota, Michigan, and Wisconsin are involved in the Bad River process. Burkholder added that Minnesota, Michigan, and EPA Region 5 do not have significant experience with Class I areas. Wisconsin has some experience with the federal Class I area at Rainbow Lake, but has only issued about four PSD permits that addressed Rainbow Lake.

#### Forest County Potawatomi Community

A portion of the Forest County Potawatomi Community (FCPC) reservation in Wisconsin has been designated as a tribal Class I area. Burkholder explained that FCPC worked out an agreement with the State of Wisconsin in 1999 that gives the department the opportunity to review the AQRVs adopted by the tribe, as well as the associated thresholds used to determine whether a source would have adverse impacts on an AQRV, before they are formally recognized by the state. The agreement also allows FCPC to change the values and thresholds every ten years. The department recently completed review of new AQRVs, which are listed on slide 18. Slides 19 to 21 list the thresholds associated with the values.

Regarding the ozone threshold associated with the vegetation AQRV (slide 21), Burkholder explained that ozone is measured on the FCPC reservation by the tribe, and the data is then certified by the DNR. The threshold is a measure of spikes in ozone concentrations. There will be a determination in May whether the vegetation threshold has been exceeded.

Slide 22 outlines the analysis required to determine whether a source seeking a PSD permit would have an adverse impact on the FCPC AQRVs. Sources any distance from the FCPC Class I area may have an adverse impact (i.e., the AQRVs and Q/D screening test apply to any major construction or modification project in the state). According to the Wisconsin SIP, the FCPC has 75 days to provide an impact analysis for a source in any part of the state. FCPC is required to analyze impacts for sources within 100 km, and FCPC and the source will work together to determine who is responsible for the analysis for sources beyond 100 km. No further analysis is needed for mercury if the emissions increase is below the relevant off ramp threshold.

Sponseller noted that about 5 to 15 of the over 100 construction permits issued annually in Wisconsin are PSD permits. Hart added that 15 PSD permits in a year is at the very high end.

Holloway remarked that a lot of expertise is required for a tribe to manage Class I status. Burkholder responded that the FCPC hires consultants. Sponseller added that FCPC also has some permanent air quality staff, including monitoring site staff.

Burkholder stated that the FCPC are planning to post more information about their Class I status on their website, and that the department website will probably link directly the FCPC site, possibly within the next week or two.

Sponseller asked the group to contact Burkholder with any questions about his presentation. His contact information is available on slide 23.

## **SO<sub>2</sub> NAAQS implementation**

David Bizot, Regional Pollutants & Mobile Sources Section Chief

Gail Good, Air Monitoring Section Chief

Bizot and Good provided an overview of the timeline for four rounds of area designations under the 1-hour SO<sub>2</sub> primary National Ambient Air Quality Standard (NAAQS). The presentation slides are available on the AMSG website under the May 28 meeting at <http://dnr.wi.gov/topic/airquality/amstudygroup.html> (starting on slide 24). The information presented in this summary supplements the information in the slides.

Regarding the first round of designations (slide 25), Good stated that the design values for the partial Oneida County monitor are around 160. Bizot added that because SO<sub>2</sub> is not a regional pollutant, area designations based on monitored violations are made by identifying the source(s) where SO<sub>2</sub> emissions are contributing to a violation, and using modeling, drawing a nonattainment area boundary that makes sense.

The Columbia power plant and Brown County monitor may potentially be affected by the second round of designations resulting from a consent decree (slide 25). The Brown County monitor was violating according to 2012 to 2014 data, but the EPA will probably use 2013 to 2015 data to finalize any designation. In addition, if permanent and enforceable limitations have been put in place at the power plant and it no longer exceeds the emissions threshold, that information can be used to avoid a nonattainment designation. The department has until September to provide input before EPA finalizes designations in 2016. The Air Program normally certifies monitoring data by May of each year, and would have to certify early to submit 2015 data to EPA.

For the third and fourth rounds of area designations proposed as part of the SO<sub>2</sub> Data Requirements Rule (slide 25), approximately 14 sources exceed the preferred option thresholds. Bizot explained that the final rule is expected in summer 2015 (slide 26), and EPA will presumably finalize technical support documents for monitoring and modeling in late summer.

A member of the audience asked about the criteria for deciding whether to use monitoring or modeling to assess nonattainment. Bizot responded that there are pros and cons to either approach in terms of workload, efficiency, etc. Good added that the Air Program will need to consider the final Data Requirements Rule before making those decisions.

A member of the audience asked whether the department looks at consent decrees and upcoming changes to determine what might provide relevant data. Bizot answered yes, technical support documents will set requirements that will help the department decide what approach makes sense. The Air Program would reach out to sources to determine what controls are in place. Installing controls sooner can help sources avoid nonattainment designations in the first place. Sponseller added that sources should provide the Air Program with any relevant information about their status. Good added that the Air Program will also be reaching out to sources.

Holloway asked whether this multilayer approach to area designations would extend to other pollutants. Bizot responded no, EPA developed this approach for SO<sub>2</sub> because of the limited SO<sub>2</sub> monitoring network and the potential for modeling to characterize air quality in places without monitors. Monitoring data is helpful, but since SO<sub>2</sub> is not a regional pollutant, relying only on monitoring data will cause some sources to be overlooked. However, modeling does not fully address the issue either, so EPA is laying out multiple options. There is some grey area regarding sources that do not exceed thresholds. EPA is laying out guidelines for states to decide how to address all relevant sources.



Holloway asked whether this approach would apply to NO<sub>2</sub> because it is similar. Good responded no, because NO<sub>2</sub> concentrations are driven by mobile sources.

Sponseller promised to keep the study group updated on the department's progress as it addresses the many layers and overlapping timelines of the nonattainment designations. Bizot added that the second half of the year will be very busy. In addition to the SO<sub>2</sub> NAAQS implementation, the Clean Power Plan final rule is expected at the end of the summer, and there will be ozone standard implementation work, including transport planning.

### **Review of AMSG charter & priority topics**

Bart Sponseller, Bureau Director

Andy Stewart, Deputy Bureau Director

Sponseller explained that he would like the study group to revisit the group's charter and the list of priority topics that was compiled when the group formed two years ago, updating the documents as needed so they continue to be useful.

#### Charter

Sponseller reviewed a handout (appended to this document; see page 13) listing minor suggested revisions to the charter, and the following revision process:

- The Air Program will send a draft updated charter (with proposed changes tracked) to members for comment.
- Members will be asked to provide any suggestions or comments in two weeks.
- The Air Program will finalize the updated charter for the study group meeting in August.

Sponseller asked members to review the charter, consider the table of suggested revisions, and send any ideas or comments. He said that he believes the group has been for the most part meeting the expectations of the charter, and that the group will review it periodically to ensure it remains up to date.

The handout notes that the charter includes a provision for a study group co-chair from among the membership, and asks for feedback from members about whether they would like to have one. Stewart commented that the intent of a co-chair was to make sure all members felt they had an opportunity to bring items to the group. He noted that if the provision for a co-chair remains in the charter, the group should have one. But he also noted that being a co-chair certainly involves a degree of extra work, so if the group is functioning well without one and members feel that the group is addressing the right topics, a co-chair may not be needed.

Stewart also commented that the Air Program wants to encourage in person meetings of the study group because it facilitates discussion of complex issues, which can be difficult when people are teleconferencing or videoconferencing. However, the Air Program wants to provide an opportunity for everyone to participate the best that they can, but also in a way that maximizes the value of everyone's time. The Air Program would like to increase the group's value to members as much as possible.

Harrington commented that the educational component of the study group – the presentations by Air Program staff on current air topics – has been very valuable in and of itself.

Harrington also noted that in previous meetings, EPA staff members have participated. He asked whether the charter should reflect that the study group is inviting them to every meeting. He feels it would be useful if they listened to the discussion. Sponseller responded that the Air Program specifically asked EPA to provide representatives, and they agreed.

### Current priority topics

Sponseller reviewed the proposed priority topics compiled in August, 2013 (appended to this document; see page 14), noting that most of the topics have been addressed by the study group. Discussion of these topics is summarized below.

#### *Permitting topics*

- *50% Registration Operation Permit (ROP) development*

Sponseller stated that the Air Program has made significant progress on this initiative and is close to completing it.

- *Permit streamlining*

Sponseller stated that the first permit streamlining rule should be effective at the end of the year, at which point it will be incorporated into the state SIP. The second rule initiative will start this summer. Hart commented that she would be interested in hearing feedback about the subgroup process. She said she understood there was frustration about the Air Program not sharing drafts of proposed rule language, but that she believes there is value in discussing the rule language in person.

Stewart suggested that it would be a good idea to show the group a slide Sponseller presented at the recent WMC conference showing the impact of previous permit streamlining efforts.

Sponseller explained that the WARP development project and Lean 6 project both reduced the number of days needed to get a construction permit. Stewart added that it demonstrates the value of streamlining efforts – they result in demonstrable and sustainable improvements.

- *PM<sub>2.5</sub> permit modeling/Significant Impact Levels (SILs)*

Sponseller noted that permitting staff have been working on this issue and the Air Program will have more to report soon.

#### *MATS & ICI Boiler MACT implementation*

Sponseller announced that these requirements are now being incorporated into permits. Some sources have a reasonable need for extensions of the implementation deadlines, and the Air Program is working with these sources to address implementation issues. He said the group could consider taking this topic off the list. Palmer agreed. He said the issues he is seeing are not broad policy issues and are best dealt with in individual permits.

#### *Sulfur dioxide NAAQS implementation*

Sponseller said this item should be left on the list, as this work is ramping up. The Air Program will continue to update the study group on progress.

#### *New Source Review Emission Reduction Credits*

Sponseller stated that staff is spending time on this topic and it should remain on the list. Palmer agreed that the study group should address the topic, but that Air Program staff should probably take the first cut. He said that EPA was fairly adamant in the past that emissions reductions that took place before area designations would not be creditable. He stated that eventually the registry was dissolved and credits were abandoned and not being recognized. He said that, assuming this recollection is correct, the department

should address these issues going forward. Few sources will participate in the program if credits are not protected.

#### *Alternative enforcement options*

Sponseller stated that this topic has been for the most part put to rest. Palmer agreed.

#### *Additional time-sensitive topics as relevant*

Holloway remarked that she has found the discussion of timely topics – current trends and policy issues – very helpful. She feels the study group agendas have been timely and appropriate. She thinks it is difficult to develop a priority list when the group does not know what issues will pop up in the future. She likes the process of sending agendas to members in advance for comment. Sponseller agreed that the priority list can be a fluid document, where topics can be added and removed as needed.

#### Potential new topics

Potential new topics suggested by the Air Program and/or study group members are listed below.

#### *Permit shield*

Harrington requested a future discussion of the permit shield. He said that there is a lot happening, and from a permit holder standpoint, hearing the department's perspective would be valuable. Sponseller said the Air Program will follow up and schedule a call with Harrington about bringing this topic to the group.

#### *Clean Power Plan*

Sponseller suggested adding Clean Power Plan implementation and plan development to the list. Palmer said he is interested in how the department will address implementation when it takes two and a half to three years to promulgate a state rule but EPA has set planning deadlines in one to two years. Sponseller responded that it is a big challenge. EPA can grant up to a two year extension if a state is working with other states and a one year extension if a state is working alone.

#### *Ozone implementation*

Sponseller suggested adding implementation of the 2008 and 2015 NAAQS and interstate transport to the list.

#### *Define "cause or exacerbate"*

Palmer suggested adding this topic to the list. Hart responded that it will be addressed in the second phase of the permit streamlining rule.

#### *Incorporation by reference*

Palmer suggested that the department pursue rulemaking to authorize incorporation by reference in permits to simplify the permitting process (for example, incorporating the federal Boiler MACT requirements into a permit by reference instead of copying the rule language into the permit). However, he is not sure whether the study group would be the right venue to address this topic.

#### *Permit application materials*

Palmer suggested that developing clearer permit application materials – forms and instructions – would help prevent enforcement disputes. Sponseller suggested having a discussion about this issue and asked if

Palmer could provide specific examples. Palmer described two enforcement cases that he believes could have been prevented by clearer application materials. In each case the source was deemed to have misrepresented information. The first source used a low heating value to describe a combustion device and a stack test was conducted using a higher heating value. The other source replaced a backup generator with a more efficient unit that was not the size cited in the permit but produced the same level of pollutant emissions. Palmer said he could provide additional examples as well. Stewart said that pursuing an initiative like this and getting input from permit applicants would be a good way to provide them with more regulatory certainty.

#### General comments

Bizot suggested that members let the Air Program know if there are topics that would benefit from subgroup work. Subgroups are a valuable way to engage on issues.

Sponseller asked members to send any thoughts about the priorities list to Walsh ([karen.walsh@wisconsin.gov](mailto:karen.walsh@wisconsin.gov), 608-267-7547). Walsh will also send out a follow-up email to collect feedback.

#### **Adjourn**

## Air Management Study Group Charter Review

May, 2015

The AMSG has been operating under the current charter since the group started meeting two years ago. The following table highlights proposed updates to the charter to ensure it continues to serve the group well in the future.

Charter section	Item	Proposed revisions/ discussion items
Throughout document	Minor language revisions (e.g., change tense from present to past, word adjustments for clarity, etc.)	
Study group operating guidelines	Co-chair appointed from membership by DNR Secretary for a two-year term.	The study group does not currently have a co-chair. Do members see value in appointing one?
	Meetings will primarily be in person, supported by Mediasite and Live Meeting, as appropriate.	Suggested change to encourage in-person attendance: Meetings will primarily be in person, with the option to call in by request.
	Draft meeting notes will be distributed to members for comments and approval approximately 8 working days after each meeting.	Suggested change to provide more time for internal staff review, as needed: "Soon after each meeting" instead of 8 working days.
Ad hoc subgroups operating guidelines	Draft subgroup meeting notes will be distributed to the subgroup for approval and then the study group for approval before being posted to the website.	Suggested change: Approval from the subgroup members is sufficient.

### Revision process

- The Air Program will send a draft updated charter (with proposed changes tracked) to members for comment.
- Members are asked to provide any suggestions or comments in two weeks.
- The Air Program will finalize the updated charter for the study group meeting in August.

**Proposed Priority Topics**  
**Air Management Study Group**  
**August 22, 2013**

The following list was compiled based on discussions during the first Air Management Study Group meeting on May 30, 2013. The list represents valuable opportunities to receive Study Group member feedback on issues that the Bureau of Air Management will be addressing over the next two years.

- Permitting topics
  - 50% Registration Operation Permit (ROP) development
  - Permit streamlining
  - PM<sub>2.5</sub> permit modeling/Significant Impact Levels (SILs)
- MATS & ICI Boiler MACT implementation
- Sulfur dioxide NAAQS implementation
- New Source Review Emission Reduction Credits
- Alternative enforcement options
- Additional time-sensitive topics as relevant